

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

PEABODY ESSEX MUSEUM, INC.  
Plaintiff,

**V.**

UNITED STATES FIRE INSURANCE  
COMPANY  
Defendant/Third-Party Plaintiff

**V.**

CENTURY INDEMNITY COMPANY,  
Third-Party Defendant

DOCKET NO: 06-CA-11209 NMG

**AFFIDAVIT OF COUNSEL IN SUPPORT OF  
THIRD-PARTY PLAINTIFF'S OPPOSITION TO THIRD-PARTY DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT**

Now comes Michael F. Aylward and, being duly sworn, deposes and says as follows:

1. I am counsel for the Third-Party Plaintiff, U.S. Fire Insurance Company, in this action.
2. During the course of this litigation, Third-Party Defendant produced various documents in response to a Request for Production of Documents served on it by Plaintiff, Peabody Essex Museum.
3. Included in this production were various policy forms, memoranda and underwriting materials concerning primary and umbrella liability insurance that ACE's predecessor, Aetna, had issued to the Peabody Essex Museum of Salem during the early 1970s.

4. These materials include the following:

A. The Declarations page for Policy No. UL 78 20 13 issued to the Peabody Museum of Salem, Inc. for the period July 10, 1973 to July 10, 1976 with limits of \$5 million each occurrence and \$5 in the aggregate subject to a \$10,000 self-insured retention. (See Exhibit A, Bates No. ACE 000089).

B. A "specimen form" of the umbrella liability policy that the Aetna Insurance Company utilized during this period of time. (Exhibit B, Bates Nos. ACE 000091-000095.)

C. Various Aetna memoranda confirming that the policy was cancelled *pro rata* at the insured's request effective September 10, 1973. (Exhibit C, Bates Nos. ACE 000088, 000090, 000099, 000100, 000109).

D. The application for insurance prepared by the Peabody Museum's insurance agent, William Wallace & Co., Inc., for this umbrella insurance coverage lists a schedule of underlying insurance stating that Aetna issued other types of insurance to the Peabody Museum during the same period of time including Comprehensive General Liability Insurance coverage (Exhibit D, Bates Nos. ACE 000110-000111).

Signed under the pains and penalties of perjury this 5th day of September, 2008.

*/s/ Michael F. Aylward*

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Michael F. Aylward, BBO #024850  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document has been electronically filed, and served upon all counsel of record in compliance with the Fed. R. Civ. P.. this 5th day of September, 2008.

*/s/ Michael F. Aylward*

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Michael F. Aylward